

REMARKS

This communication is in response to the non-final Office Action dated February 19, 2009, in which claims 1-24, 28, and 36-46 were pending. In the Office Action, claims 1-24, 28, and 40-46 were allowed, and claims 36-40 were rejected under 35 U.S.C. § 103(a). With this response, claim 36 is amended, and all of the pending claims 1-24, 28, and 36-46 are in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejections and an indication of allowance with respect to the pending claims in view of the arguments presented below.

Allowable Subject Matter

Applicants thank the Examiner for the indication of allowance of claims 1-24, 28 and 41-46.

Rejection of the Claims Under § 103

Claims 36-40 under 35 U.S.C. § 103(a) were rejected as being obvious over U.S. Publication No. 2003/0083719 (“Shankar”).¹ The Office Action relies upon Shankar to teach an implantable cardiac therapy device (ICTD) with a local transceiver that communicates with the ICTD using short range telemetry or longer range high-frequency telemetry; and where the transceiver may be incorporated into the ICTD.² The Office Action asserts that “the ICTD upon receiving the low-frequency signal is able to transmit high-frequency signals via the RF transceiver 692 for far field communications.”³ However, the Office Action does not cite a passage in Shankar in support of that asserted functionality, and Applicants do not find such functionality in Shankar.

In Shankar, the high-frequency transceiver handles only high-frequency signals, in isolation, apart from the cardiac therapy circuitry.⁴ Shankar discloses reception of both low-frequency and high-frequency signals, concurrently, and discloses generating information for

¹ See the Office Action dated February 19, 2009, page 2.

² *Id.*

³ See the Office Action dated February 19, 2009, page 3.

⁴ See Shankar, page 6, paragraph [0070].

external transmission through the RF transceiver.⁵ However, Shankar makes no mention of opening a channel “to communicate using a wireless far field link” in response to a signal from a near field transmission source as recited in claim 36. As a result, as Applicants understand Shankar, the reference does not disclose or suggest “receiving at the implantable telemetry system a first wireless signal from a near field transmission source” and “upon receiving the first wireless signal, opening a channel in the implantable telemetry system to communicate using a wireless far field link, the opening in response to receiving the first wireless signal,” as recited in claim 36.

Additionally, Shankar does not disclose a time period after which such a channel is closed. Instead, to the extent that timing control is disclosed, such control is applied to timing of stimulation pulses via “timing control circuitry 632”⁶ and not to communications over the channel, as recited in claim 36. Therefore, Shankar fails to disclose or suggest “closing the [previously opened] channel after a predetermined period,” as recited in claim 36.

Accordingly, Shankar fails to disclose or suggest at least the above two elements of claim 36, and of claims 37-40, by virtue of their dependency from claim 36. Applicants therefore respectfully request the reconsideration and withdrawal of the above rejection, and the allowance of claims 36-40.

⁵ See, e.g., *Shankar*, pages 8-9, paragraph [0097].

⁶ See *Shankar*, page 5, paragraph [0055] (“timing control circuitry 632 to control the timing of the stimulation pulses... as well as to keep track of the timing of refractory periods, blanking intervals, noise detection windows, evoked response windows, alert intervals, marker channel timing, and so on.”).

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (512) 9324 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of June, 2009.

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